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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,717	10/18/2004	David Kempzell	21046-00041-US1	6745
30678 7590 04/06/2007 CONNOLLY BOVE LODGE & HUTZ LLP P.O. BOX 2207 WILMINGTON, DE 19899-2207			EXAMINER NGUYEN, SON T	
			ART UNIT 3643	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/511,717

Applicant(s)

KEMPSELL ET AL.

Examiner

Son T. Nguyen

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3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 1-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

SON T. NGUYEN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 10/18/04.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group 2, claims 23-34, in the reply filed on 3/8/07 is acknowledged. Note, the election is considered without traverse because Applicant did not argued to the restriction requirement. Claims 1-22 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group 2, there being no allowable generic or linking claim.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 23,25-31,33-42,44** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amos (914546).

For claim 23, Amos teaches a saddle tree comprising a tree body 1 having a pommel end (see fig. 6, near ref. 17) and a cantle end (see fig. 6, near ref. 16 right side), the tree body being formed from a flexible material (page 1, left column, line 25, resilient metal) and a generally V-shaped strengthening bar 14 wherein the forks of the V-shape are directed towards the cantle end of the saddle tree. However, Amos's strengthening bar is not Y-shaped. It would have been an obvious substitution of functional equivalent to substitute the V-shaped strengthening bar of Amos with a Y-

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shaped strengthening bar, since both shapes of strengthening bar would perform the same function to provide strength and rigidity to the saddle tree.

For claim 25, Amos teaches wherein the pommel end of the saddle tree is angularly adjustable since the material of the saddle tree is resilient metal as disclosed on page 1, left column, line 25.

For claim 26, Amos teaches a head plate 10 located near to the pommel end.

For claim 27, Amos teaches wherein the head plate is malleable (see page 2, lines 14-30).

For claim 28, Amos teaches wherein the head plate is securable in an aperture located in the saddle tree (see fig. 1, the holes where the screws are located therein to attach the plate 10 to the tree).

For claim 29, Amos teaches wherein the head plate is formed integrally within the saddle tree. Integrally is considered as a whole unit.

For claim 30, Amos is silent about the head plate is formed from malleable steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the head plate of Amos out of a malleable steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. See *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945) and *In re Leshin*, 125 USPQ 416.

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For claim 31, Amos teaches two recessed portions, one at either side of the tree near to the pommel end, in which stirrup bars are securable. Recesses are located near ref. 8 in fig. 6.

For claim 33, Amos teaches girth web apertures 9 located at both the pommel and the cantle end.

For claims 34-42,44, Amos teaches a saddle comprising the saddle tree above. It is inherently taught in Amos that the saddle tree is used with a saddle.

4. **Claim 24** is rejected under 35 U.S.C. 103(a) as being unpatentable over Amos as applied to claim 23 above, and further in view of Swain (6363698).

Amos is silent about the strengthening bar being made from carbon fibre.

Swain teaches a saddle tree comprising a strengthening bar 8 made out of carbon fibre (col. 2, line 40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the strengthening bar of Amos out of carbon fibre as taught by Swain, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice. See *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945) and *In re Leshin*, 125 USPQ 416.

5. **Claims 32 & 43** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amos as applied to claim 23 above, and further in view of Worcester (2130442).

For claim 32, Amos is silent about a sheet of bi-directional carbon fibre applied to at least one of the upper and lower surfaces.

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Worcester teaches a sheet 7 of reinforcement made out of iron applied to the upper surface of a saddle tree 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a sheet of reinforcement as taught by Worcester on the upper surface of the saddle tree of Amos in order to strengthen and reinforce the saddle tree.

For claim 43, Amos teaches a saddle comprising the saddle tree above. It is inherently taught in Amos that the saddle tree is used with a saddle.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'Son T. Nguyen'.

Son T Nguyen
Primary Examiner
AU 3643